

# SHERBURNE C O U N T Y



*Sherburne County  
Planning Advisory Commission Meeting Minutes  
February 18, 2021  
6:00pm*

The Sherburne County Planning Advisory Committee met in the Board Room, with the Board Chair present at the Sherburne County Government Center in Elk River, Minnesota and the remaining members joining via phone (due to Covid-19) on February 18, 2021 to hold a public hearing for all unincorporated areas of Sherburne County in which the County has zoning and land use authority, along with the Township of Big Lake, the Township of Baldwin and the Township of Livonia, to consider the evening's agenda and other planning and zoning related topics.

Chairperson Bryan Lawrence called the meeting to order and roll was taken.

The following members were present via phone:

Bruce Aubol, Big Lake Township; Roger Nelson, Blue Hill Township; Lila Spencer, Livonia Township; Steve Demeules, Palmer Township; Bryan Adams, Orrock Township; Terrance Vandereyk, Clear Lake Township; David Jehoich, Santiago Township

The following staff member was present via phone:

Zoning Administrator, Nancy Riddle

Present in the Board Room was Chairman, Bryan Lawrence, Baldwin Township, and the following staff members; Assistant Zoning Administrator, Lynn Waytashek, Senior Planner, Marc Schneider; Planner, Mitch Glines; Secretary, Carrie Winter and Assistant Public Works Director/Deputy County Engineer,

David Roedel.

Lawrence stated that each vote will occur with a roll call due to members attending via phone call. Lawrence stated that the meeting was being recorded and announced that the Planning Commission is a recommending body. Items recommended for approval by the Planning Commission will be heard by the County Board of Commissioners on March 16, 2021 at 9:00am.

Aubol made a motion to approve the Public Hearing agenda for February 18, 2021. Adams seconded. Motion carried and the Public Hearing agenda for February 18, 2021 was approved.

Demueles made a motion to approve the minutes from the January 21, 2021 Public Hearing. Nelson seconded. Motion carried and the minutes were approved for the January 21, 2021 Public Hearing.

**Agenda:**

1. **Stephen and Cynthia Mockenhaupt:** Requesting a Conditional Use Permit for a Personal Storage Structure.
2. **Karl & Beth Virkus** - Requesting a Preliminary and Final Simple Plat approval of **“CRANBERRY HILL FARMS SECOND ADDITION”** consisting of two (2) lots.
3. **Scott Lillestrand:** Requesting a Conditional Use Permit for a Personal Storage Structure.
4. **All T Trux & Tractors LLC** IUP-Bus Selling Vehicles, Boats, Farm Equipment and Auto Repair/Mechanical or Body
5. **MC Development Elk River LLC** (Owner RW Land Holding LLC): Request for preliminary and final plat approval for “Dean Anderson Third Addition” a 1-lot simple plat.
6. **MC Development Elk River LLC** (Owner RW Land Holding LLC): Requesting an Interim Use Permit for a Highway Planned Unit Development for Ministorage.
7. **Amend the Sherburne County Zoning and Subdivision Ordinance:** Amendment to establish a definition for Buildable Lot Area in both the Zoning and Subdivision Ordinance.

## Agenda Item #1-6:04pm

**Stephen and Cynthia Mockenhaupt** Requesting a Conditional Use Permit for a Personal Storage Structure

PID 35-408-0270 Ann Lake Beach Lot 14, Block 2, Sec 15, Twp 34, Rge 27 Orrock Twp, .10 ac, in General Rural District and in the Shoreland Overlay District of Ann Lake a Recreational Development Lake.

Mitch Glines, Planner, presented the request to the Planning Commission including the Board Packet, attachments, and comments.

### PLANNING COMMISSION PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Site Plan
- C. Building Elevations (1-3)
- D. Site Photos (1-2)

**ORROCK TOWNSHIP COMMENTS** (received November 19, 2020): Board recommends approval, provided all County requirements are met.

### DEPARTMENT/AGENCY COMMENTS:

**County Attorney Office:** No comments received.

**James Bedell, DNR:** No comment received

### PLANNING & ZONING STAFF COMMENTS:

1. The applicant is requesting to construct a 22'x26' (572 sq. ft.) Personal Storage Structure. The applicant owns a house on Ann Lake across the street from this lot (PID 35-408-0126).
2. The applicant has applied for a 51' variance to the road right of way and it will be presented at the February 11, 2021 Board of Adjustment meeting.
3. The current septic system was installed in 2005 and evaluated in 2020 which it passed. The septic tanks are located on the lot with the house. The drainfield is located on the lot across the street where the proposed structure would be located.
4. Per the applicant, the septic drainfield was designed so if the existing drainfield were to fail, a new one can be installed north of the existing drainfield and still meet the required setbacks of 10' to the property lines. Proposed site of structure is south of the existing drainfield and will not impact if a new septic is to be installed to the north of existing.
5. The required setback to the drainfield from the structure is 20', proposed is 10', this distance has been approved by the Sherburne County Building Official as the garage does not have any living areas.
6. Two mature trees would need to be removed for the construction of the structure. The applicant has stated that he has planted five (5) trees on the parcel (PID 35-408-0126) within the last year.

7. The applicant is moving to the house on PID 35-408-0126 in the spring of 2021 to make it their primary residence and needs a structure to store lawn and garden items, kayaks and vehicle per written explanation received on October 20, 2020.
8. The applicant has stated he is the lake volunteer responsible to spray Ann Lake for Aquatic Invasive Species (AIS) and needs a place to store the chemicals, the tanks, spray bar, hoses, pumps, and compressor. They are currently stored at his house which he will be moving from.
9. There is one small storage shed on the property that will be required to be removed from the lot.
10. The property was surveyed in 2004 and according to the applicant, they can find the surveyed corners for an accurate measurement.
11. The maximum impervious surface on this lot per the survey is 1,089 sq. ft. The proposed 22' x 26' building with a 15'x16' driveway will account for 812 sq. ft. of impervious surface, which equates to approximately 19% impervious surface.

**RECOMMENDED CONDITIONS IF APPROVED:**

1. Must obtain a building permit and pay the associated fees prior to starting work on this project.
2. The existing shed is required to be removed before a building permit is issued. Only one Personal Storage Structure be allowed per parcel.
3. Must abandon the most southern 1st run of the drainfield per MPCA guidelines and must obtain a septic permit for this.
4. The existing drainfield will have to be fenced off as to not have construction activity on the drainfield.
5. Personal Storage Structures will be limited to personal use and cannot be used for any business operation.
6. Must install gutters on the building to control run off and ensure runoff is not toward drainfield.
7. A maximum height of the structure is 25 feet from the ground to the peak.
8. No plumbing or floor drains shall be allowed.
9. Applicant must install erosion control around perimeter of project to minimize construction run-off.

**Planning Commission Discussion Followed:**

The applicants, Steve and Cindy Mockenhaupt were present to represent the property at 16481 253 ½ Ave NW. Their current address of residence is 8185 Wood Duck Trail, Lino Lakes. They stated that they went through the Variance process and have moved it as far back from the road as possible, their personal storage structure is farther back than most others on that road. This is a very small road with very small lots.

Lawrence asked if the applicant understood the (9) Conditions that staff has recommended.

Mr. Mockenhaupt stated that he has seen the Conditions and he understands them.

Lawrence opened the Public Hearing. No one from the Public spoke. A comment was received for the record from Carolyn and Dave Larson, 16489 253<sup>rd</sup> ½ Ave, Big Lake, in favor of the CUP. This full comment was sent to the Planning Commission members via email prior to the Public Hearing and summarized by Glines during the meeting.

Nelson made a motion to close the Public Hearing. Aubol seconded. The motion carried and the Public Hearing was closed.

Adams made a motion to recommend approval of the Conditional Use Permit for the Personal Storage Structure with the (9) Conditions. Nelson seconded.

**CONDITIONS:**

1. Must obtain a building permit and pay the associated fees prior to starting work on this project.
2. The existing shed is required to be removed before a building permit is issued. Only one Personal Storage Structure be allowed per parcel.
3. Must abandon the most southern 1st run of the drainfield per MPCA guidelines and must obtain a septic permit for this.
4. The existing drainfield will have to be fenced off as to not have construction activity on the drainfield.
5. Personal Storage Structures will be limited to personal use and cannot be used for any business operation.
6. Must install gutters on the building to control run off and ensure runoff is not toward drainfield.
7. A maximum height of the structure is 25 feet from the ground to the peak.
8. No plumbing or floor drains shall be allowed.
9. Applicant must install erosion control around perimeter of project to minimize construction run-off.

**FINDINGS:**

*No Conditional Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:*

*Glines read the Findings and Adams provided a response.*

1. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity. **YES** or **NO** **WHY?**

***Yes, the proposed use is a personal storage structure it is not anticipated to diminish and impair values within the immediate area.***

2. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. **YES** or **NO** **WHY?**

***Yes, the proposed use will be used as a personal storage structure. The building will be located on the south side of the lot to obtain a 10' distance from the septic drainfield. Houses and garages along the same street range from 2' to 16' from the road right of way.***

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. **YES** or **NO** **WHY?**

***Yes, the request is for a typical residence which will not require any additional utilities.***

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **YES** or **NO** **WHY?**

***Yes, parking will be limited based off the location of the building. It is proposed to be 26' from the edge of the road. The applicant's house across the street has enough room to accommodate additional parking off the street.***

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **YES** or **NO** **WHY?**

***Yes, it is not anticipated to cause offensive odor, fumes, dust, noise, and vibration to the immediate area. It's only going to be used as personal storage.***

*The motion carried with all members voting in favor via roll (Aubol, Adams, Jehoich, Spencer, Nelson, Demeules and Vandereyk). The CUP for the Personal Storage Structure is recommended by the Planning Commission to the County Board for approval.*

**Agenda Item #2-6:13pm**

**Karl & Beth Virkus** - Requesting a Preliminary and Final Simple Plat approval of **“CRANBERRY HILL FARMS SECOND ADDITION”** consisting of two (2) lots.

PID 30-522-0105 Cranberry Hill Farms Lot 1 & Lot 3, Block 1, Sec 12, Twp 34, Rge 26 Livonia Twp, 26.99 ac, in General Rural District.

Lynn Waytashek, Assistant Zoning Administrator, presented the request to the Planning Commission including the board packet, attachments, and comments.

**PLANNING COMMISSION PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Preliminary Plat (date stamped January 25, 2021)
- C. Final Plat (date stamped January 7, 2021)

**LIVONIA TOWNSHIP COMMENTS** (received 12/30/2020): The proposed plat serves the purpose to clean up lot lines, particularly where a building was built over the lot line in a drainage and utility easement. This will prevent future issues. Unanimous approval recommended.

**DEPARTMENT/AGENCY COMMENTS:**

**County Attorney Office:** No comments received.

**Mike Lindenau, Co Ditch Inspector** (Dec 11, 2020): Does not appear to be on a ditch. No concerns.

**David Roedel, Deputy County Engineer** (December 11, 2020): No concerns.

**Russ Heiling, County Surveyor** (Jan 26, 2021): All survey comments have been addressed. May be very minor mathematical changes needed at the final plat check – this is normal.

**PLANNING & ZONING STAFF COMMENTS:**

1. This is an existing plat. The property owner constructed a pole building over the lot line and is proposing to adjust lot line. He owns both parcels.
2. There is an existing driveway easement (Doc#305574) that benefits the landowner to the north of the proposed plat. The driveway easement does infer that the easement holder has rights over the servient parcel (being the proposed plat). Any interest holder in the plat has to sign the plat or sign a consent to plat prior to the plat being recorded.
3. There are three (3) wetlands on this property. The furthest north wetland located on proposed Lot 2 is a tamarack bog. This is a rather unique feature to find in Sherburne County and is more commonly found in northern Minnesota. This wetland is an identified site and shown on the County Biological Survey completed by the DNR of existing natural habitats. It is recommended that the property owner avoid all wetland impacts in and around this rare wetland feature. This wetland cannot drain, filled or excavated without prior permit approvals from the Sherburne County Zoning Dept.

**RECOMMENDED CONDITIONS IF APPROVED:**

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1. The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.
2. Any wetland impacts (draining, filling or excavating) require prior approval from Sherburne County.
3. The individuals who hold the driveway easement (Doc#305574) will need to sign off on the plat or consent as they are interest holders.
4. Erosion control must be installed and maintained for construction of home until area is revegetated on proposed Lot 1 due to steep slopes and proximity to wetlands.

#### **Planning Commission Discussion Followed:**

Waytashek added a fifth recommended Condition; That the Original drainage and utility easements be vacated through Livonia Township.

Karl and Beth Virkus, 9900 261<sup>st</sup> Ave NW, Zimmerman, owner of Cranberry Hill Farms came forward as the representatives of the plat. Mr. Virkus stated that they are trying to divide the current plat. They gave a twin daughter 6 acres of the parcel previously and want to do the same for the other twin daughter, the additional acres will be added to their property.

Lawrence asked about the barn that had been on the property.

Mr. Virkus stated that the barn fell down due to the vibration when the new road was put in.

Lawrence asked the applicants if they understand the (5) Conditions and can abide by them, including the fifth Condition recommended by Waytashek.

Mr. Virkus stated his understanding.

Adams asked Waytashek why she would suggest vacating the utility easement and which ones she is referring to.

Waytashek replied that she is referring to the easement by the pole barn, this is an existing drainage and utility easement where the previous property line was. The pole building is built into the easement. Waytashek does not know if legally all of the drainage and utility easements are vacated when the lots are replatted and then new easements are put over it, or if specifically, they will need to vacate the easement along the old property line. This is the area that the township will need to determine how they want it done. This will be a requirement which is standard.

Adams asked if Waytashek is only requiring this for the one easement where the shed crosses?

Waytashek stated that the County Attorney will need to address this, but she believes that all old easements are vacated and then the new easements are put in when the plat is recorded. She knows



that there is an issue with where the existing lot line was and that needs to be vacated. They can work with the township on that.

Vandereyk asked Waytashek who owns Outlot A? He assumes that this is part of the original plat.

Waytashek replied that she believes that Mr. Virkus owns this and that it may have been a Condition for plat approval for the previous owner and this is to be given to the property owner to the North due to the location of the driveway. However, this may be Outlot B. Waytashek asked for the location of Outlot A.

Vandereyk stated that Outlot A parallels the East line of the original, Lot 2 of Block 1. It's a 30 ft easement and he assumes that it's an ingress/egress easement, but he's curious to the ownership of it.

Waytashek stated that this is owned by Virkus and believes it is his driveway.

Virkus stated that the West easement (Outlot B) is for the neighbor Dan and his driveway. Virkus' driveway goes between the two ponds.

Waytashek stated that this is Outlot A.

Lawrence opened the Public Hearing. Bob and Patty Lundgren, no address given, inquired to receive the preliminary plat which was sent to them upon request. This full comment was sent to the Planning Commission members prior to the hearing. No other comments were received, nor was anyone present to testify at the Public Hearing.

Spencer made a motion to close the Public Hearing. Jehoich seconded. The motion carried and the Public Hearing was closed.

Spencer made a motion to recommend approval of the request for preliminary and final simple plat approval of "Cranberry Hill Farms Second Addition" consisting of (2) lots, with the (5) recommended Conditions. Aubol seconded.

**Conditions:**

1. The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.
2. Any wetland impacts (draining, filling or excavating) require prior approval from Sherburne County.
3. The individuals who hold the driveway easement (Doc#305574) will need to sign off on the plat or consent as they are interest holders.
4. Erosion control must be installed and maintained for construction of home until area is revegetated on proposed Lot 1 due to steep slopes and proximity to wetlands.

5. The original drainage and utility easements, in Cranberry Hill Farms, will be vacated through Livonia Township.

*The motion carried with all members voting via roll call in favor (Aubol, Adams, Jehoich, Spencer, Nelson, Demeules and Vandereyk) and the preliminary and final simple plat for “Cranberry Hill Farms Second Addition” is recommended for approval by the Planning Advisory Commission to the County Board.*

Commissioner, Tim Dolan joined the meeting by phone at this time, he stated that he had listened to the meeting, but was not able to communicate until this point.

**Agenda Item # 3-6:22pm**

**Scott Lillestrand:** Requesting a Conditional Use Permit for a Personal Storage Structure.

PID 10-115-2104, Address 166202 211<sup>th</sup> Ave NW Elk River, Sec. 15 Big Lake Township 20 Acres in the General Rural Zoning District

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the board packet, attachments, and comments.

**PLANNING COMMISSION PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Site Plan
- C. Building Elevations (1-3)
- D. Survey

**BIG LAKE TOWNSHIP COMMENTS** (received January 21, 2021): Board recommends approval, upon meeting the requirements set forth by Planning and Zoning.

**DEPARTMENT/AGENCY COMMENTS:**

No comments received.

**PLANNING & ZONING STAFF COMMENTS:**

- 1. The applicant is requesting to construct a 30'x60' (1,800 sq. ft.) with 16ft side walls personal storage structure on a 20-acre parcel. There is adequate space on this lot to build a home and add a septic to this property in the future, if desired.
- 2. There are no other buildings on this lot.
- 3. The applicant is proposing to build this structure in the center of the property, over 500ft from the road and roughly 200ft from the east lot line, which complies with all setback requirements.

**RECOMMENDED CONDITIONS IF APPROVED:**

- 1. The applicant must comply with County's Zoning Ordinance and Minnesota State Building Code.
- 2. The Personal Storage Structure cannot be used as dwelling unit or for any business purpose.
- 3. The Personal Storage Structure is not permitted to have plumbing or a floor drain.
- 4. The maximum height of the structure is 25 feet from the ground to the peak.

**Planning Commission Discussion Followed:**

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Scott Lillestrand came forward as the applicant, he and his wife are looking to build a storage structure on the property. They have started to do some work; the driveway has been put in; they have a shared easement with the neighbor.

Lawrence asked if Lillestrand intends to build a house there in the future.

Lillestrand stated that this is the intention.

Lawrence asked if the applicant understood and is able to abide by the four (4) Conditions.

Lillestrand replied, "Yes, Sir."

Vandereyk asked Schneider if this is considered a land locked parcel.

Schneider stated that it does have an established easement and has legal access, so it is not considered a land locked parcel.

Vandereyk clarified that there is an easement.

Schneider stated that this easement is identified on the survey, Packet Attachment D; ingress, egress easement for the Parcel #10-115-2200.

Vandereyk confirmed that this is parcel 2200 and asked if there is a document on record for this easement.

Schneider stated, "Yes."

Lawrence opened the Public Hearing. No one from the Public Spoke nor were any comments received for the Public Hearing.

Aubol made a motion to close the Public Hearing. Demeules seconded. The motion carried and the Public Hearing was closed.

*All members voted to recommend approval (Aubol, Adams, Jehoich, Spencer, Nelson, Demeules and Vandereyk) with the following Conditions and Findings of Fact. The CUP for Personal Storage is recommended by the Planning Commission to the County Board for approval.*

**CONDITIONS:**

1. The applicant must comply with County's Zoning Ordinance and Minnesota State Building

Code.

2. The Personal Storage Structure cannot be used as dwelling unit or for any business purpose.
3. The Personal Storage Structure is not permitted to have plumbing or a floor drain.
4. The maximum height of the structure is 25 feet from the ground to the peak.

**FINDINGS:**

*No Conditional Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:*

*Schneider read the Findings and Aubol provided a response.*

1. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity. **YES or NO** WHY?

***Yes, the proposed use is a personal storage structure it is not anticipated to diminish and impair values within the immediate area.***

2. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. **YES or NO** WHY?

***Yes, the proposed use will be used as a personal storage garage. There is enough land on this 20 acre parcel to accommodate space for a future house and septic if desired.***

3. Have adequate utilities, access roads, drainage and other necessary facilities been or are being provided? **YES or NO** WHY?

***Yes, the applicant is not requesting additional utilities beyond what a normal residence would require.***

4. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. **YES or NO** WHY?

***Yes, the applicant has sufficient parking space to accommodate the proposed use.***

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **YES or NO** WHY?

***Yes, it is not anticipated to cause offensive odor, fumes, dust, noise and vibration to the immediate area. It will be used as a personal garage.***

#### **Agenda Item #4-6:29pm**

**All T Trux & Tractors LLC** IUP-Business Selling Vehicles, Boats, Farm Equipment and Auto Repair/Mechanical or Body

PID 10-547-0105. Address 19640 200<sup>th</sup> Ave NW Big Lake, Legal Lot 1, Block 1 Spankys Corner Second Addition Sec. 24, Twp 33, Rge. 28 Big Lake Township, 4.6 acres in the Commercial District and within the Shoreland District of the Beulah Pond.

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the board packet, attachments, and comments.

#### **PLANNING COMMISSION'S PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Applicant explanation of request
- C. Site Plan 1-2
- D. Building exterior and floorplan
- E. Photos from property

**BIG LAKE TOWNSHIP COMMENTS** (received January 21, 2021): Board recommends approval, upon meeting the requirements set forth by Planning and Zoning.

#### **DEPARTMENT/AGENCY COMMENTS:**

**James Bedell, DNR** at this time I do not have any comments to provide on this CUP, if any changes are made to the permit application, I may then have comments to submit.

**City of Big Lake** No comments received

**Thomas Cruikshank Principal Planner, MnDOT** (January 6, 2021)

1. There does not appear to be discrepancies or encroachments affecting the state right of way requiring action at this time.
2. There shall be no net increase in storm water runoff to the U.S. Highway 10 right of way from said property. Computations of all storm water directed toward the right of way shall be provided to MnDOT. Contact Mark Renn, District 3B Permits Supervisor, at 320/223-6522 for additional information.
3. Since the property abuts MnDOT right of way, a permit is required to perform any work in the right of way. Contact the above-mentioned District 3 Permits Supervisor for additional information.

#### **PLANNING & ZONING STAFF COMMENTS:**

1. The applicant Troy Roback, All T Trux & Tractors LLC is requesting an Interim Use Permit to operate his Autor repair and sales business from this property. According to the applicant's written description (packet attachment B) he is proposing to use the northeast corner of this building to operate his commercial truck and trailers repairable business from this property. The work done by

his company includes the purchasing of damaged commercial trucks and trailers which are repaired and sold. On average his business will do 5-10 vehicles per year. It is a small business with one mechanic and one owner/salesman.

2. This is not a service garage for the public, the applicant does repairs on vehicles he owns with the intention of selling them.
3. The of number employees using the property is two currently but may add an additional mechanic in the future.
4. The proposed hours of operation by are Monday thru Friday 8am-4pm.
5. The applicant has no plans to expand the parking lot. Exterior storage is proposed, and the business will use the west and north side of the property for parking and storage of vehicles (see Packet Attachment C-1).
6. The septic had a passing compliance inspection completed in August 2020. The septic is located on the south side of the building (see Packet Attachment C).
7. The proposed location is Lot 1, Block 1 of Spanky's Corner 2<sup>nd</sup> Addition (2007). Conditions of plat approval require that prior to any building permit being issued the property owner must obtain a CUP for the proposed business. This condition applies to all tenants as well (each requires a CUP/IUP).

**RECOMMENDED CONDITIONS IF APPROVED:**

1. A condition of plat approval and variance permit number 40091 for Spankys Corner requires impervious surface coverage must not exceed 50% (99,970 sq. ft.) of the lot. Impervious surfaces may include structures, driveways, and parking areas whether paved, gravel, or compacted soil. Any additional impervious surface areas added to this property require an approved Shoreland Alteration permit from the Sherburne County Planning and Zoning Department prior to its installation. The estimated existing impervious surface on this lot is 53,274 sq. ft.
2. A condition of plat approval and variance permit number 40091 for Spankys Corner requires a 150' buffer from the OHWL of Beulah Pond (Natural Environment Lake) must be kept in its natural condition. The property owner shall obtain a Shoreland Alteration Permit from the Sherburne County Planning and Zoning Department for any removal of trees, if required under Section 14 of the Zoning Ordinance (Shoreland District).
3. The occupant shall maintain a Dealers' License from the MN Dept. of Public Safety and comply with all license requirements.
4. Painting of vehicles is not permitted as part of this interim use permit.
5. Adequate off-street parking shall be available for business use. At a minimum, 1 parking stall shall be provided per 250 sq ft of office space floor area per Sect 17, Subd 2(10K) of the Zoning Ordinance; and 10 parking stalls shall be assigned to the dealership per MN Statute 168.27, Subd 10. Each stall shall be 9' X 18' and signed for dealership parking.
6. No more than 10 vehicles may be displayed for sale at one time.
7. Exterior storage is proposed applicant shall conform to the site plan Packet Attachment C and be kept in a neat and orderly manner.

8. A building permit is required from the Planning and Zoning Department for any alteration to the existing building. All building plans must be prepared by an architect or engineer to certify the structure complies with MN Building Code and the American Disability Act requirements.
9. Any signage shall comply with the sign ordinance, a sign permit is required.
10. Any solid or liquid waste must be handled and disposed of according to any applicable County or State regulations.
11. All exterior lighting shall be directed down and away from public right-of-way, and any adjacent residential use.
12. The IUP holder and/or property owner shall permit the County to inspect the property, including any buildings used for the business during normal working hours. Further, the IUP holder shall allow the County to inspect any business records for the purpose of ensuring compliance with the terms of the IUP.
13. This IUP is issued to Troy Roback, All T Trux & Tractors LLC and shall expire upon termination of lease.
14. Cars for sale to be well maintained, drivable and presented in a neat and organized way on an impervious surface.

**Planning Commission Discussion Followed:**

Lawrence suggested that Condition #14 be modified to replace “Cars” with “Vehicles.”

Schneider replied that this seems like an appropriate modification.

Tony Roback, 14423 100<sup>th</sup> ST SE, Becker came forward as the applicant.

Lawrence asked how long the applicant had been doing business on the property.

Roback stated that it had been 1.5 years.

Lawrence asked applicant if he understood the Conditions; if the numbers fit what his business is and what it will be.

Roback confirmed he understands the Conditions and stated that he would like to keep the operation small.

Adams asked about Condition #4, “Painting of vehicles is not permitted as part of this interim use permit,” asking what is done with the vehicles once they are repaired.

Roback stated that he has a subcontractor in Gillman that does that for them.



Adams then asked about the type of IUP, it states Business selling Vehicles, Boats, Farm Equipment and Auto Repair/Mechanical or Body, do we want to limit this to auto repair/mechanical or body work? From what Adams is gathering, Roback is not going to be selling, cars, boats, or farm equipment.

Applicants stated that he does sell stuff there.

Adams asked Roback what he will be selling. The comments state just commercial truck and trailer repair. Is there more going on?

Roback stated that he is selling commercial trucks, commercial trailers and sometimes farm equipment and things like that.

Adams asked about cars or boats.

Roback stated he hasn't but that he could in the future. It's not a normal part of the business.

Lawrence asked applicant to clarify that commercial truck, means anything above a pickup.

Roback stated it is usually 16,000 GBU and over.

Lawrence asked if the trailers are semi-trailers?

Roback confirmed that the trailers are semi-trailers.

Lawrence confirmed, only semi-trailers not motorhomes or anything like that? Not tractors?

Roback replied, "No, we just repair to resell. We don't repair anybody else's stuff."

Adams asked if we want to limit what he can sell or leave it open as it's stated.

Lawrence stated that he understands that we are leaving it open, but Condition #6 limits the amount to 10 items for sale, but it can be any 10 that meet the criteria.

Schneider stated that the Ordinance for Interim Use Permits lists the use as a Business Selling Vehicles, Boats, Farm Equipment, and the Conditions can be modified to be more restrictive if the Board wishes to do this.

Lawrence asked Roback if the request and discussion is to sell all of the above? He's not sticking to just cars, just trucks, it's a variety of things that he would like to sell.

Roback replied that ideally, he would like to have it open, but 90-95% of what they do is commercial trucks.

Adams stated that he just wants to know up front what will be sold.

Vandereyk asked if there is an existing IUP on this parcel?

Schneider stated that there is an existing IUP that was issued about 5 months ago for office space for an HVAC company. There was a new person coming in and buying the property. The owner of the property is trying to make sure that the tenants are all permitted properly. There is also a CUP on this parcel for a repair and towing business. This used to be Larson's Towing and they are still leasing a portion of this building. There are 3 tenants currently using this property.

Vandereyk asked Schneider, will there be 3 permits in place on this property?

Schneider confirmed.

Lawrence opened the Public Hearing. Tracy Roback, 14423 100<sup>th</sup> St SE, Becker came forward. Tracy is the wife of the applicant, Tony Roback, and wanted to make a comment that Troy Roback is listed on the documents and this should be corrected to Tony.

Schneider clarified that this is Condition #13 and thanked Mrs. Roback for the correction.

Waytashek asked if there is enough parking for all of the businesses?

Schneider stated that there is and that this is listed as a Staff Comment and Condition of approval, that it complies with auto sales, as auto sales has another standard as well above and beyond the County Ordinance.

No one from the public was present no were any comments received for this Public Hearing.

Aubol made a motion to close the Public Hearing. Adams seconded. The motion carried and the Public Hearing was closed.

Adams stated that Condition #14 was suggested to be changed to vehicles for sale, he suggested that it should this be listed as items for sale.

Lawrence suggested changing this to vehicles and trailers, then Lawrence deferred to Schneider.

Schneider stated that the definition of vehicles does not include tractors; it's a licensed vehicle so he suggested taking the language from the IUP, selling vehicles, boats, farm equipment. Adams stated that this would be fine.

Waytashek asked if we needed to add trailers.

Lawrence stated that it is not listed but that it should be.

Aubol made a motion to recommend approval of the IUP for a Business Selling Vehicles, Boats, Farm Equipment and Auto Repair/Mechanical or Body with the (14) Conditions with Condition #13 changed to Tony and Condition #14 changed to vehicles, boats, farm equipment and trailers. Adams seconded.

**Conditions:**

1. A condition of plat approval and variance permit number 40091 for Spankys Corner requires impervious surface coverage must not exceed 50% (99,970 sq. ft.) of the lot. Impervious surfaces may include structures, driveways and parking areas whether paved, gravel, or compacted soil. Any additional impervious surface areas added to this property require an approved Shoreland Alteration permit from the Sherburne County Planning and Zoning Department prior to its installation. The estimated existing impervious surface on this lot is 53,274 sq. ft.
2. A condition of plat approval and variance permit number 40091 for Spankys Corner requires a 150' buffer from the OHWL of Beulah Pond (Natural Environment Lake) must be kept in its natural condition. The property owner shall obtain a Shoreland Alteration Permit from the Sherburne County Planning and Zoning Department for any removal of trees, if required under Section 14 of the Zoning Ordinance (Shoreland District).
3. The occupant shall maintain a Dealers' License from the MN Dept. of Public Safety and comply with all license requirements.
4. Painting of vehicles is not permitted as part of this interim use permit.
5. Adequate off-street parking shall be available for business use. At a minimum, 1 parking stall shall be provided per 250 sq ft of office space floor area per Sect 17, Subd 2(10K) of the Zoning Ordinance; and 10 parking stalls shall be assigned to the dealership per MN Statute 168.27, Subd 10. Each stall shall be 9' X 18' and signed for dealership parking.
6. No more than 10 vehicles may be displayed for sale at one time.
7. Exterior storage is proposed applicant shall conform to the site plan Packet Attachment C and be kept in a neat and orderly manner.
8. A building permit is required from the Planning and Zoning Department for any alteration to the existing building. All building plans must be prepared by an architect or engineer to certify the structure complies with MN Building Code and the American Disability Act requirements.
9. Any signage shall comply with the sign ordinance, a sign permit is required.
10. Any solid or liquid waste must be handled and disposed of according to any applicable County or State regulations.
11. All exterior lighting shall be directed down and away from public right-of-way, and any adjacent residential use.
12. The IUP holder and/or property owner shall permit the County to inspect the property, including any buildings used for the business during normal working hours. Further, the IUP holder shall allow the County to inspect any business records for the purpose of ensuring compliance with the terms of the IUP.

13. This IUP is issued to Tony Roback, All T Trux & Tractors LLC and shall expire upon termination of lease.
14. Vehicles, boats, farm equipment and trailers for sale are to be well maintained, drivable and presented in a neat and organized way on an impervious surface.

**FINDINGS:**

*No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:*

*Schneider read the Findings while Aubol provided a response.*

1. That the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity. **YES or NO** WHY?

***Yes, the proposed use will be in line with the existing use of the property. The applicant is not proposing to expand exterior storage or the parking area.***

2. That the establishment of the Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. **YES or NO** WHY?

***Yes, the proposed use will not impede normal development this property is zoned commercial and there is an existing commercial building on this property adjacent properties are also zoned commercial.***

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. **YES or NO** WHY?

***Yes, utilities, access roads and drainage have been taken into account when this land was platted in 2007.***

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **YES or NO** WHY?

***Yes, the applicant has sufficient parking space to accommodate the proposed use and drainage was accounted for with the platting of this property in 2007.***

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **YES or NO** WHY?

***Yes, it is not anticipated to cause offensive odor, fumes, dust, noise and vibration to the immediate area. No work will be completed outdoors.***

*The motion carried with all members voting in favor via roll (Aubol, Adams, Jehoich, Spencer, Nelson, Demeules and Vandereyk). The CUP for a Business Selling Vehicles, Boats, Farm Equipment and Auto Repair/Mechanical or Body is recommended by the Planning Commission to the County Board for approval.*

## Agenda Item #5 -6:47pm

**MC Development Elk River LLC** (Owner RW Land Holding LLC): Request for preliminary and final plat approval for “**Dean Anderson Third Addition**” a 1-lot simple plat.

PID# 30-534-0010 Sec 27, Livonia Township on 8.13 acres in the General Rural District

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the board packet, attachments, and comments.

### **PLANNING COMMISSION’S PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Final Plat (date received November 24, 2020)
- C. Preliminary Plat (date received January 21, 2021)

**LIVONIA TOWNSHIP COMMENTS** (January 25, 2021) Recommended approval.

### **DEPARTMENT/AGENCY COMMENTS:**

**David Roedel, Deputy County Engineer** (December 7, 2020)

Sherburne County Public Works Engineering has no concerns with the proposed simple plat. It is not on a County Road.

**Russ Heiling, County Surveyor’s Office** (December 22, 2020) All Survey comments have been addressed  
**Mike Lindenau, County Ditch Inspector** (December 1, 2020) Property does not benefit from a county ditch. No issues here.

**Thomas Curikshank, Principal Planner MnDOT** (December 15, 2020) The MnDOT has reviewed the plat in compliance with the provisions of MN Statute 505.03 and offer the following comments:

1. There does not appear to be discrepancies or encroachments affecting the state right of way requiring action at this time.
2. There shall be no net increase in stormwater runoff to the US Hwy 169 right of way from said property. Computation of all stormwater directed toward the right of way shall be provided to MnDOT Contact Mark Renn, District 3B permit supervisor, at 320-223-6522 for additional information.
3. Since the property abuts MnDOT right of Way a permit is required to perform any work in the right of way. Contact the above mentioned District 3 Permit Supervisor for additional information

### **PLANNING & ZONING STAFF COMMENTS:**

1. The applicant is proposing to create a single lot from an 8-acre Outlot. There are no structures on the property.
2. A wetland delineation has been approved on this property and the property is clear of any violations of the Solid Waste Ordinance.

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3. All access to this property will be from 119th St no access or impact to the right of way of US Hwy 169 is permitted.
4. To address concerns for future access to concerns related to the lot northeast of this proposed development Lot 1, Block 2 of Dean Anderson 2<sup>nd</sup> Addition, the applicant is proposing to grant the owner of PID 30-534-0205 a 50' easement to access 119<sup>th</sup>.

**RECOMMENDED CONDITIONS IF APPROVED:**

1. The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.
2. All access to this property will be from 119th St no access or impact to the right of way of US Hwy 169 is permitted.

**Planning Commission Discussion Followed:**

Lawrence asked if the driveway access to 169 will be eliminated?

Schneider stated that the access onto 169 is there for residential purposes and is someone wanted to convert this property from residential to commercial, similar to the property we are discussing, MnDOT would most likely not approve this access so we are looking to accommodate future development of Lot 1, Block 2 of Dean Anderson 2<sup>nd</sup>. The township and the County shared this concern and the applicant was willing to accommodate this concern.

Chad Howsden, 20315 151<sup>st</sup> St NW, Elk River joined by phone as the applicant and Matt Agrimson, 23810 Meadow Creek Drive, Corcoran, came forward as the applicant.

Lawrence asked the applicants if they had anything to add and if they are fine with the two (2) Conditions.

Howsden and Agrimson stated their understanding and had no further comments.

Spencer asked for clarification if parcel 30-534-0205 was to be granted an easement?

Schneider confirmed this to be correct.

Spencer suggested that a third Condition be added that the easement be granted when the plat is recorded.

Schneider stated that the Planning Commission can make this a recommended Condition and the County Board can decide what to do with the it. The County Attorney expressed a concern regarding this as it is a matter between two property owners.

Lawrence asked Spencer for her wishes.  
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Spencer stated that if this easement is not granted, then the only access was just via 169 which would limit this to strictly a residential property.

Schneider stated that MnDOT would be issuing any upgrades and access to the property and MnDOT has mentioned concerns with granting direct access onto 169.

Spencer stated that her concern is, which, she understands is between the two owners, if the easement is not granted, then the owner of this lot would be land locked.

Schneider stated that it is not land locked, but MnDOT may restrict access to commercial development in the future.

Lawrence stated that legally we cannot require the landowners to give an access.

Schneider stated that the applicant has addressed this with the neighbor and it's worth having him provide his feedback.

Agrimson stated that they have spoken with the landowners and are willing to put the easement in, he is not opposed to this being added as a Condition.

Spencer stated that since the applicants are okay with it, she would like this added as a Condition.

Vandereyk stated his agreement with Spencer and understands that it can't be made by the plat, according to Chapter 505, but it is something that should be a commitment made by the landowner.

Lawrence stated that there are 2 applications, and each have separate approvals, one does not hinge on the other. This would still be a lot of record, even if not granted the IUP.

Lawrence opened the Public Hearing. No one from the Public Spoke nor were any comments received for the Public Hearing for this item.

Spencer made a motion to close the Public Hearing. Adams seconded. The motion carried and the Public Hearing was closed.

Spencer made a motion to recommend approval of the request for preliminary and final simple plat approval of "Dean Anderson Third Addition" consisting of (1) lot, with the (3) recommended Conditions. Jehoich seconded.



**Conditions:**

1. The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.
2. All access to this property will be from 119th St no access or impact to the right of way of US Hwy 169 is permitted.
3. The 50 ft easement shown on the Preliminary Plat for PID 30-534-0205 is to be recorded at the same time as Dean Anderson 3<sup>rd</sup> Addition.

*The motion carried with all members voting via roll call in favor (Aubol, Adams, Jehoich, Spencer, Nelson, Demeules and Vandereyk) and the preliminary and final simple plat for "Dean Anderson Third Addition" is recommended for approval by the Planning Advisory Commission to the County Board.*

## Agenda Item #6-6:57pm

**MC Development Elk River LLC (Owner RW Land Holding LLC):** Requesting an Interim Use Permit for a Highway Planned Unit Development for Ministorage.

PID# 30-534-0010 Sec 27, Livonia Township on 8.13 acres in the General Rural District

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the board packet, attachments, and comments.

### **PLANNING COMMISSION'S PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Written Description and responses to Livonia Town Board Concerns (5 pages)
- C. Phased Construction Plan
- D. Landscaping and screening Plan
- E. Lighting Plan
- F. Photo examples of buildings, fencing and signage.
- G. Examples of proposed buildings (6 pages)
- H. Building Plan
- I. Grading and Drainage Plan (8 pages)
- J. Photos taken on site (2 pages)

**LIVONIA TOWNSHIP COMMENTS** (December 29, 2020) Recommended Approval with the following comments:

- If the IUP is granted, the outdoor parking of RVs, boats, cars, etc. (i.e. slip rental) will be prohibited even in the event that Sherburne County regulations change in the future and allow outdoor storage and parking.
- This provision is to be stated in the IUP permit; the property would be better suited for a different type of business.
- Lighting should not shine toward the homes in the development.
- Notification and comments from the neighbors should be sought.
- Porta-potties need to be placed in the area.
- A dumpster should be available.
- A berm along HWY 169 would help to visually screen the buildings.
- The tree plan looks good.

**TOWNSHIP ENGINEER COMMENTS, Wes Davis, Bogart Pederson** (January 26,2021) After review of the Storm water report, it looks like the water quality volume and pre-/post- discharge rates are in compliance with the NPDES requirements. I have no further comments.

### **DEPARTMENT/AGENCY COMMENTS:**

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**Thomas Curikshank, Principal Planner MnDOT Thomas Curikshank, Principal Planner MnDOT**  
(December 15, 2020)

1. There does not appear to be discrepancies or encroachments affecting the state right of way requiring action at this time.
2. There shall be no net increase in stormwater runoff to the US Hwy 169 right of way from said property. Computation of all stormwater directed toward the right of way shall be provided to MnDOT Contact Mark Renn, District 3B permit supervisor, at 320-223-6522 for additional information.
3. Since the property abuts MnDOT right of Way a permit is required to perform any work in the right of way. Contact the above mentioned District 3 Permit Supervisor for additional information

**PLANNING & ZONING STAFF COMMENTS:**

1. The applicant has requested an Interim Use Permit (IUP) for a Highway Planned Unit Development to establish a self-storage business on this property. The applicant is proposing to construct 13 buildings housing about 430 self-storage units on this 8-acre parcel.
2. The applicant is proposing to develop the property in 2-3 phases over a 2-5 year period (See Packet Attachment C). The first phase will start on the south side of the property.
3. All access to the property will be from Township Road 119<sup>th</sup> the applicant is proposing two driveways that will be controlled with a secured automatic gate. The property will not be staffed there are not plans for offices or bathrooms. The only equipment on site will be a bob cat for snow removal.
4. Proposed days and hours of operation are 7 days a week 6am-10pm.
5. To screen the business from the neighboring housing development to the west the applicant is proposing to install a 6ft tall privacy fence along 119<sup>th</sup> Street and add a single row of trees for extra screening and visual appearance. Trees are a mix of Black Hills Spruce and Autumn Blaze Maples. Similar tree planting as described for 119<sup>th</sup> will be planted along the north, south and east sides of the property. (See Packet Attachment D Landscaping and screening Plan).
6. The entire property will be fenced, there will be a 6ft tall privacy fence on the west side abutting housing and an 8ft tall chain-link around the rest of the property.
7. To address the comments and concerns raised by the Livonia Town Board at their December 29, 2020 meeting the applicant has provided a written response that was shared with the Town Board at their January 25, 2021 meeting. The applicant's letter acknowledged exterior storage would not be permitted, provided updated lighting plan to ensure light would be directed away from homes to the west, revised their grading plans to accommodate a vegetated berm along US Hwy 169 (for full letter see Packet Attachment B-4).
8. The applicant responded to a concern raised by the Livonia Town Board regarding the estimated vehicle trips a day that this business will generate. The applicant estimates when fully developed there may be up to 26 cars a day between the hours of 6am - 10pm (see Packet Attachment B-4 for full description of estimated traffic).
9. A dumpster will be kept on site not for tenant use.
10. The applicant has provided a lighting plan for the property all lighting will be attached to the building and directed toward the ground (see Packet attachment E).

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11. The applicant's proposed final development of this property will result in 4.5 acres of impervious surface. This includes bituminous driveways, and buildings. The Applicant has had a preliminary grading and drainage plan prepared by Wenck Engineering demonstrating all stormwater will be retained on site. The Township Engineer has reviewed these plans found they comply with State and Township Requirements.
12. There are no plans for well and septic to service this property.

**RECOMMENDED CONDITIONS IF APPROVED:**

1. In accordance with Section 16.2, Subd 5.16(5) of the Sherburne County Zoning Ordinance; a developer's agreement must be signed with the township and/or the County as specified in the interim use permit.
2. This Interim Use Permit for a Highway Planned Unit is issued to MC Development Elk River LLC for the purpose of Mini-Storage Business
3. The Board's Packet Attachments including the Landscaping and Screening Plan, Lighting Plan, Building Plans and Grading and Drainage Plans and written descriptions along with any conditions added during Planning Advisory Commission and/or County Board review will become a part of the approved interim use permit. The location of any improvements on the property shall be consistent with these plans. A variation from these approved plans may require an amendment to the IUP, subject to the opinion of the Zoning Administrator.
4. No permits may be issued until the plat of Dean Anderson Third Addition has been Recorded.
5. A building permit is required from the Planning and Zoning Department all building plans must be prepared by an architect or engineer to certify the structure complies with MN Building Code.
6. No Exterior storage is permitted with this IUP.
7. Any signage shall comply with the County's sign ordinance, a sign permit is required.
8. Road access will remain via 119th Ave no other road access is approved with this IUP.
9. Exterior lighting shall be directed away from residences and the public right-of-way and shall comply with the lighting plan as presented in the Board's Packet Attachment E.
10. Days and hours of operation shall be 7-day a week 6 AM-10PM. Snow removal and maintenance of this property may be done outside those hours.
11. Must install 6-foot tall Black Hills Spruce and 2-inch Autumn Blaze Maples as shown on Landscaping Plan (Attachment D). All planted trees on the property must be maintained and watered as necessary for the duration of the permit. Any dead trees must be replaced on a yearly basis.
12. The applicant shall allow the County to inspect the property during normal business hours.
13. A Stormwater Erosion Control permit will be required from the County Zoning Dept prior to any grading on the property and prior to a building permit being issued.
14. Must obtain an NPDES permit from the MPCA and provide a copy to the County Zoning Dept prior to commencing construction.
15. Property owner shall ensure that MPCA day & nighttime noise standards are not exceeded at any time.

**Planning Commission Discussion Followed:**

Chad Howsden, 20315 151<sup>st</sup> St NW, Elk River joined by phone as the applicant and Matt Agrimson, 23810 Meadow Creek Drive, Corcoran, came forward as the applicant.

Lawrence asked the applicants if they understand the Conditions and can abide by them.

Applicants replied, "Yes."

Lawrence asked if it is common for a mini storage facility to be open 7 days a week, 6:00am-10:00pm?

Agrimson stated that something in this range is common.

Lawrence stated that there are neighbors to the one side and this is a bit of a concern to him, with people coming and going, 7 days a week until 10:00pm.

Waytashek asked about the dumpster being a requirement and where is it listed? The township had commented on this, but Waytashek didn't know if this had been added to the Conditions.

Schneider stated that Condition #3 was a catch all. It is encompassed in this Condition; what the applicant will accomplish was submitted on the plan, they do call out the use of a dumpster in their plans. We issue IUPs and CUPS and we end up with lengthy Conditions of approval, this Condition is holding the developers to what they say that they are going to do. We will need to enter into a Developers Agreement to ensure that the landscaping plans get accomplished, that the work that the applicant has proposed is accomplished. This is saying that if the plans are altered substantially, then they need to come back and alter the IUP.

Waytashek stated that the comment back from the owners, to Livonia Township states that a dumpster will be on site, available to the owners and operators of the property in the event that the tenants leave refuse behind, it will be stored within a unit for the owners to access only. Is this acceptable to the Planning Commission?

Lawrence confirmed that the applicant is talking about a 3 yd dumpster not a roll-off.

Applicant confirmed.

Schneider stated that mini storage is not intended to be a disposal site, this is why the dumpster is for their use. If someone trashes the property, there are damage deposits. This is not a disposal site.

Adams said that he is concerned about proximity to the residents, how about changing the hours from 7:00am-8:00pm?

Lawrence said that this can be taken as a consideration and clarified that this would be 7 days a week.

Adams asked if this is acceptable to the applicant?

Jehoich is concerned about the amount of lighting on the external building and the proximity to 169 but stated that this seems to be addressed in Condition #9. If the lighting faces downward then this should take care of it.

Lawrence asked if Jehoich had a comment on time frame. Jehoich stated that he does not have a comment on this.

Spencer stated that the hours of operation suggested by Adams, 7:00am-8:00pm, seem better to her for the residents. She agrees with the dumpster comments by the applicant, that it is for their use and to be contained in a separate unit. She doesn't think it's necessary to have a porta potty on site.

Lawrence asked Spencer to confirm that only the dumpster in the unit is acceptable to the Township.

Spencer confirmed.

Spencer asked if someone will be coming through periodically to check the condition of everything? What is the plan on that?

Agrimson stated that they will be coming through as often as maintenance is needed or to meet with people. They will have cameras watching the property so they will have idea if anything is left out or unsightly.

Spencer then asked if there will be access at a remote site to see what is going on?

Agrimson confirmed that this is correct.

Lawrence asked what type of fence will be there, chain link or privacy chain link.

Agrimson stated that it will be standard chain link.

Lawrence asked if it would have privacy strips going through it?

Agrimson stated that they do not plan to do that, but if there is a desire to do that, it could be considered. The front privacy fence on the West side will be solid as stated in attachment F-2.

Lawrence confirmed the West will be a solid fence and the fence on the North, South and East will be chain link and added that there will be trees.

Lawrence reviewed the recommended Conditions as discussed; Condition #10 being altered to 7:00am-8:00pm.

Nelson suggested that summer hours can be longer as it's daylight longer.

Spencer disagreed; she feels that 8:00pm is late enough.

Nelson asked if someone will be present to enforce this?

Lawrence asked the applicant how the renters will have access?

Agrimson stated that there will be security gates and they will have card access or code access. As far as exiting, the hours will be posted and if someone is breaking hours of access, this would be on camera.

Spencer asked if they would be able to get out, for example it it's 8:05pm?

Agrimson stated yes. Howsden stated that the gate could not be opened for entry after 8:00pm, but there is a coil under the road that would sense a vehicle and open the gate so someone could leave.

Spencer stated that a dumpster was discussed and wanted to confirm that this dumpster could be used in an enclosed unit?

Lawrence stated that an external dumpster had been discussed as a Condition, but after previous comments, this additional proposed Condition was eliminated.

Lawrence opened the Public Hearing. Rob and Peggy Harlander, 12226 239<sup>th</sup> Ave NW, Elk River, submitted a written comment opposing the development of mini storage due to increased traffic and potential crime that may occur. This comment was shared in full with the Planning Commission, prior to the Public Hearing, via email and summarized by Schneider during the Public Hearing.

Spencer made a motion to close the Public Hearing. Aubol seconded. The motion carried and the Public Hearing was closed.

Spencer made a motion to recommend approval of the Interim Use Permit for Highway Planned Unit Development for mini storage with the (15) Conditions, Amending Condition #10 from 6:00am-10:00pm to 7:00am-8:00pm. Jehoich Seconded.

Lawrence asked about outdoor storage and if there should be an additional Condition for this as it was noted by the Township that this not be allowed.

Schneider stated that Condition #6 addresses this and that the township even added that if the Ordinance Changes on this, they want this to remain.

Vandereyk asked about the Developers Agreement between the County and the Developer and item #3 being a catch all, similar to Solar Farms, Vandereyk asked who inspects for compliance for the Developers Agreements?

Schneider stated that there are checkpoints for this, the building permit process, the stormwater, and erosion control permit will be another checkpoint, checking the vegetated buffer, the tree plantings. Long term, in the Conditions of approval.

Vandereyk stated that it's been Clear Lake Township's experience that this has not happened.

Waytashek clarified that with Solar Farms there are not Developers Agreements. The Developers Agreement here is due to the Conditions on a Planned Unit Development that a Developers Agreement be done. On a Solar Farm, a Developers Agreement is not done. We do go out and check trees annually for Solar Farms and if the trees are not planted or if the trees die, a letter is written for follow up and they do need to replant the trees. There was an issue in Clear Lake where the applicant showed in their plans to the Planning Commission and to the County Board that they were doing a cyclone fence and they ended up putting in an Ag fence vs a Cyclone fence and they needed to come back to the Planning Commission due to this. This happened by the same Developer on two of their properties and this hadn't come up before. This is watched very closely now. Next month, the Planning Commission will be seeing another Clear Lake application for a Solar Farm where the applicant is asking for an Ag fence. The township comments stated that they do not want an Ag fence, they want the cyclone type. This issue will be coming before you at the next Planning Commission. Fences have turned into a lot bigger issue on Solar Farms than we intended them to be and this is now watched much more closely.

Vandereyk stated his understanding; but stated that Schneiders comment left him to think it was going to be treated similar to solar farms and he hasn't seen a lot of Compliance in Clear Lake.

Schneider stated that with this project, it is a visible project. This developer has been diligent in working on this application and supplying what is requested. This developer is not going to be selling this off. We want to see that this is done well and there is a strong IUP and Developers agreement to go back on, if there are issues.

**Conditions:**

1. In accordance with Section 16.2, Subd 5.16(5) of the Sherburne County Zoning Ordinance; a developer's agreement must be signed with the township and/or the County as specified in the interim use permit.
2. This Interim Use Permit for a Highway Planned Unit is issued to MC Development Elk River LLC for the purpose of Mini-Storage Business
3. The Board's Packet Attachments including the Landscaping and Screening Plan, Lighting Plan, Building Plans and Grading and Drainage Plans and written descriptions along with any conditions added during Planning Advisory Commission and/or County Board review will become a part of the approved interim use permit. The location of any improvements on the property shall be consistent with these plans. A variation from these approved plans may require an amendment to the IUP, subject to the opinion of the Zoning Administrator.



4. No permits may be issued until the plat of Dean Anderson Third Addition has been Recorded.
5. A building permit is required from the Planning and Zoning Department all building plans must be prepared by an architect or engineer to certify the structure complies with MN Building Code.
6. No Exterior storage is permitted with this IUP.
7. Any signage shall comply with the County's sign ordinance, a sign permit is required.
8. Road access will remain via 119th Ave no other road access is approved with this IUP.
9. Exterior lighting shall be directed away from residences and the public right-of-way and shall comply with the lighting plan as presented in the Board's Packet Attachment E.
10. Days and hours of operation shall be 7-day a week 7 AM-8PM. Snow removal and maintenance of this property may be done outside those hours.
11. Must install 6-foot tall Black Hills Spruce and 2-inch Autumn Blaze Maples as shown on Landscaping Plan (Attachment D). All planted trees on the property must be maintained and watered as necessary for the duration of the permit. Any dead trees must be replaced on a yearly basis.
12. The applicant shall allow the County to inspect the property during normal business hours.
13. A Stormwater Erosion Control permit will be required from the County Zoning Dept prior to any grading on the property and prior to a building permit being issued.
14. Must obtain an NPDES permit from the MPCA and provide a copy to the County Zoning Dept prior to commencing construction.
15. Property owner shall ensure that MPCA day & nighttime noise standards are not exceeded at any

**FINDINGS:** *No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:*

*Schneider read the Findings and Spencer provided a response.*

1. That the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity. **YES** or **NO** WHY?

***Yes, the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.***

2. That the establishment of the Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. **YES** or **NO** WHY?

***Yes, the County's Zoning Ordinance Section 16.2 (Interim Uses), Subd. 5.16 (Planned Unit Development Highway) allows the establishment of a business on lands that abut a State or US Highway if it is found to be appropriate use that will serve the local marketplace. The development of this property should not impede development on the surrounding vacant properties.***

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. **YES** or **NO** **WHY?**

***Yes, there are minimal public utilities needed for the development of this property, the applicant is not proposing to add a well or sewer to the property. Access to the business will be from 119<sup>th</sup> a low volume township road. The drainage plans provided by the applicant have been reviewed by the Township Engineer Wes Davis, Bogart Pederson, who state quality volume and pre-/post-discharge rates are in compliance with the NPDES requirements.***

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **YES** or **NO** **WHY?**

***Yes, the applicant has sufficient parking space to accommodate the proposed use in accordance with County.***

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **YES** or **NO** **WHY?**

***Yes, the Conditions of approval along with the Developers Agreement should ensure that the Applicant's proposed plans for security, lighting, visual screening and drainage do not constitute a nuisance to neighboring landowners.***

*The motion carried with all members voting in favor via roll (Aubol, Adams, Jehoich, Spencer, Nelson, Demeules and Vandereyk). The IUP for a Highway Planned Unit Development for mini storage is recommended by the Planning Commission to the County Board for approval.*

## Agenda Item #7 -7:27pm

### Amend the Sherburne County Zoning and Subdivision Ordinances:

#### Zoning Ordinance Amendment

1. Section 5 Definitions and Rules of Language Construction, Subd 2 Definitions establish a definition of a Buildable Lot Area.
2. Section 7 Agricultural District, Subd 6.2 establish buildable lot area.

#### Subdivision Ordinance Amendment

1. Section 5 Definitions and Rules of Language Construction, Subd 2 Definitions establish a definition of a Buildable Lot Area.
2. Section 8, Subdivision, 5(B)(5); Section 10, subd. 5(C)(5); and Section 10.1, subd. 15(C)(5):
3. Section 11, Subdivision. 4(A):

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the board packet, attachments, and comments.

#### PLANNING COMMISSION'S PACKET ATTACHMENTS:

- A. Proposed Zoning Ordinance Amendment
- B. Proposed Subdivision Ordinance Amendment

#### PLANNING & ZONING STAFF COMMENTS:

1. In 2019 Planning Commission recommended approval of a substantial amendment to the County's Subdivision Ordinance to clarify the Subdivision Ordinance by:
  - a. Ensuring the ordinance has consistent processes and language.
  - b. Past practices and policy are put into ordinance
  - c. Update definitions
  - d. Build in opportunity to review sketch plans with developer and other County/Twp staff (Pre-Application Meetings).
  - e. Clarify submittal requirements for Surveyors
  - f. Establish Findings for Approval for Plats.
  - g. Remove redundancy in the administrative side of the Ordinances
2. At the time those amendments were presented there was a desire by zoning staff to better define the Buildability standards in both the Zoning and Subdivision Ordinance. The Planning Commission recommend approval with the recommendation that staff address the concerns about buildability standards.
3. It was determined in addition to amending the Subdivision Ordinance the County would have to amend the Zoning ordinance to reflect the changes needed to the buildability requirements.
4. Staff is not proposing to modify the amount of buildable area in either the Zoning or Subdivision Ordinance it will remain 40,000 contiguous square feet of the required minimum platted lot area at

least three (3) feet above the highest known water table. Staff is proposing to exclude the following features from being counted in the buildable area on all lots:

- a. road rights-of way
  - b. all easements
  - c. all setbacks
  - d. wetlands
5. For properties within the Shoreland Overlay District
- a. Land below the ordinary high water level
  - b. Bluffs
  - c. Areas with slopes greater than eighteen (18) percent
  - d. Floodways
6. It is not anticipated this proposed amendment will have much impact on proposed plats where the lots are high and dry, the minimum lot size in the two primary zoning districts are General Rural (2.5 acres) and Agricultural (5 acres). It is anticipated that this amendment may impact the number of lots a developer can get on tracks of land that have large wetlands, are within a shoreland district or have large public or private easements.

**Issues the proposed amendment will alleviate:**

- Provide adequate space for house, septic, and accessory buildings.
- Minimize or eliminate need for variances on newly created lots for placement of house or accessory buildings.
- Serve the interest of the public by ensuring newly created lots in Sherburne County have adequate land available to accommodate building needs and are not restricted by unforeseen easements setbacks or other restrictions established by other land use regulations. For example: under current regulations you could have a 2.5 acre lot that half of it lot could be occupied by a large utility pipeline and overhead powerline easement; or there could be a 2.5 acre lot on a natural environment lake where over an acre of land must be excluded from development because of setback requirements, but could be counted in the current 40,000 sq ft buildable area requirement.

**Draft Zoning Ordinance Amendments**

Section 5, Subdivision 2.

Buildable Lot Area: The minimum contiguous area meeting the buildable lot area requirements of the applicable zoning district remaining on a lot or parcel of land after all public road rights-of way, all easements, setbacks, and wetlands are subtracted. In the Shoreland District, all land below the ordinary high water level of public waters, bluffs, areas with slopes greater than eighteen (18) percent, and floodways shall also be subtracted. Land where other legal or ordinance restrictions exist, which would prevent or prohibit the placement of a structure shall also be subtracted.

Section 7 Agricultural District, Subdivision 6.2

Buildable Lot Area No public or shared sewage treatment system 40,000 sq. ft.

**Draft Subdivision Ordinance Amendments**

Section 5, Subdivision 2:

Buildable Lot Area: The minimum contiguous area meeting the buildable lot area requirements of the applicable zoning district remaining on a lot or parcel of land after all public road rights-of-way, all easements, setbacks, and wetlands are subtracted. In the Shoreland District, all land below the ordinary high water level of public waters, bluffs, areas with slopes greater than eighteen (18) percent, and floodways shall also be subtracted. Land where other legal or ordinance restrictions exist, which would prevent or prohibit the placement of a structure shall also be subtracted.

Section 8, Subdivision, 5(B)(5); Section 10, subd. 5(C)(5); and Section 10.1, subd. 15(C)(5):

In addition to meeting the buildable lot area requirements of the applicable zoning district, each ~~Each~~ lot shall have sufficient buildable area to accommodate the construction of structures and driveways, a sewage treatment system, two (2) soil treatment and dispersal areas to support the system, and a water supply system, while providing for all required setbacks. Areas that ~~are in floodways, wetlands, rights of way, bluffs or steep slopes, or that~~ have soils that are unsuitable for individual sewage treatment systems shall not be included in calculating the buildable area of a lot.

Section 11, Subdivision. 4(A):

- A. In addition to meeting the buildable lot area requirements of the applicable zoning district, all ~~All~~ newly created lots for residential building purposes, where public sanitary sewer is not available, must have at least 40,000 contiguous square feet of the required minimum platted lot area at least three (3) feet above the highest known water table.

**Planning Commission Discussion Followed:**

Aubol asked if this pertains to lake shore?

Schneider replied that this does not impact existing lots of record. It would affect new development. For example, there was a sketch that came in yesterday and when staff looked at it, when you took out the bluff or the setbacks, it was a 19,000 sq ft lot, so it may have impacts. Surveyors may not have to lose a lot; they may have to modify the lake lots or the river lots, so they have more space.

Adams stated, "No questions, Good Job Marc."

Demeules stated that he is good with it, but he doesn't see that this is going to cut back on the Variances that we have on the Lake shore. That's just the way it is. He is okay with being able to have these bigger lots to accommodate a lot with wetlands.

Dolan thanked staff for adding continuity to the Ordinances. The Ordinances don't necessary always communicate well within our Ordinance and this amendment will address some of that.

Lawrence stated that Baldwin township is not in favor of this. Concerns were lots of record which Schneider addressed. The road right of ways, the easements, the setbacks, the wetlands, people are paying taxes on this, they have invested in this, whether it's a developer or not. Lawrence asked, "What is the average sq ft that a home and septic would take up?"

Schneider stated this full land disturbance is about .75 acres and this doesn't include an accessory building.

Lawrence stated that he doesn't think that an accessory building should automatically be included. If there is space for one, it gets granted, if there is not space, it doesn't get granted. Baldwin is not in favor of taking away the opportunity to put a house where other things may not be put anyway. Ordinance already says that if the criteria is met for the sq footage that the house can still be built in the location.

Waytashek stated that there was a recent issue with a plat in Baldwin on a Natural Environment Lake and between the roads and the natural development lake, as soon as that development got approved and recorded, people were calling and asking for variances to build on a brand new plat and we should not be seeing that. They didn't have enough room for outbuildings and to put a house where they wanted to place it. Waytashek's response to those questions, was that this was just approved, and she thinks that they will have a very hard time getting a Variance approved on a brand new plat that was just approved. This Ordinance Amendment is trying to address this. Under State Statute you need a primary and a secondary septic site. Often times, people want to put up an outbuilding in addition to the house on the property and we have to ensure that there is enough room for all of this. We are trying to make sure that there is enough room for these lots when approved up front. 20 years ago, we were seeing Ag parcels that were being developed and now we are seeing that the lots that are left have wetlands and we want to ensure that we're not making it too tight for people. Just like the example that Schneider mentioned, in Big Lake Township there was a property with the big power and utility lines, you look at this property and think wow, this is a 2.5 acre lot, this is huge, and then once you start to factor all of the easements and lake setbacks, it constricts it a lot more and people don't understand that when they purchase something. We are trying to protect the property owner, not necessarily the developer, but the future property owner.

Lawrence replied that even with all of those restriction, you still have a spot where a home could be built and still make all the setbacks with 40,000 sq ft. The fundamental criteria can still be put into those parcels. Maybe not for the outbuilding.

Waytashek stated that the current Ordinance states that you have to have 40,000 sq ft but it does not take into account the setbacks. So if you have a 2.5 acre lot that is 200 ft wide and you have a 150 ft setback from a Natural Environment Lake and a 67 ft setback from the right-of-way from a township road, the amount of area that you have left for your outbuildings, septic system and everything you need gets awfully constricted and we're trying to address that.

Lawrence stated his understanding, but the area is still large enough for the house, the septic, and the driveway at that point. This is where Baldwin Township is at.

Schneider stated that the current Ordinance allows for residential, it doesn't guarantee the accessory building, it doesn't guarantee that you get the building placed where you want it. One of the things that we are looking out for is this serves the interest of the public, so these newly created lots have the land available to accommodate the needs that we are seeing. We want to make sure that these lots are transparent, what you buy is what is suitable for development. This takes the setbacks off right off the bat. Staff looked at several different projects and this will have an impact on areas with steep slopes which may be in a shoreland district and developer and the surveyor will need to modify how they are laying out the lots.

Lawrence stated the big concern for Baldwin Township was the lots of record.

Lawrence opened the Public Hearing. No one from the Public spoke. No comments were received from the Public.

Spencer motioned to close the Public Hearing. Demeules seconded. The motion carried and the Public Hearing was closed.

Adams made a motion to approve the Zoning and Subdivision Amendments. Aubol seconded.

*The motion carried with 7 members voting in favor via roll call (Aubol, Adams, Jehoich, Nelson, Spencer, Demeules, Vandereyk) and 1 member (Lawrence) in opposition. The Amendments to the Zoning Ordinance and the Subdivision Ordinance is recommended by Planning Commission to County Board.*

**Other Items:**

Waytashek stated that she recalled for the IUP (which goes with the property owner) for the MC Development item that we needed to add a Condition to say whether this goes with the property owner or if it's good for a certain length of time to ensure that the applicant is aware.

Lawrence recommended bringing that issue to the attention of the County Board.

**Closing:**

Aubol made a motion to adjourn the meeting. Spencer seconded. The motion carried and the meeting was adjourned at 7:45pm.

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Submitted by Carrie Winter, Secretary